

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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SEPRACOR INC.,	:	
Plaintiff,	:	<b>Hon. Dennis M. Cavanaugh</b>
v.	:	<b>ORDER</b>
TEVA PHARMACEUTICALS USA, INC.,	:	Civil Action No. 09-cv-01302 (DMC) (MF)
<i>et al.</i>	:	
Defendants.	:	

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DENNIS M. CAVANAUGH, U.S.D.J.:

This matter comes before the Court upon motion of Plaintiff Sepracor Inc. (“Plaintiff”) to dismiss the affirmative defense and counterclaim of inequitable conduct asserted by Wockhardt Ltd. and Wockhardt USA LLC (collectively, “Wockhardt”); this Court, having reviewed all submissions, and for the reasons stated in its Opinion issued on this day;

IT IS on this 7 th day of June, 2010;

**ORDERED** that Wockhardt’s claim of inequitable conduct based on Plaintiff’s characterization of the oral toxicity studies is **dismissed with prejudice**, and it is further,

**ORDERED** that Wockhardt’s claim of inequitable conduct based upon Plaintiff’s failure to disclose the 1999 Rat Study is **dismissed without prejudice**.

/s/ Dennis M. Cavanaugh  
Dennis M. Cavanaugh, U.S.D.J.

Original: Clerk's Office  
cc: All Counsel of Record  
The Honorable Mark Falk, U.S.M.J.  
File